

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12219 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

KRUNAL RAMESHBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12219 of 2002
MR HR PRAJAPATI for Petitioner No. 1
MR MR PRAJAPATI for Petitioner No. 1
MS NV JOSHI, AGP for Respondent No. 1-3
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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/05/2003

ORAL JUDGEMENT

By filing this petition the petitioner - detenu
has challenged the detention order dated 29/10/02 by

which he is detained as a dangerous person under PASA. Along with the detention order the petitioner is also served with the grounds of detention of the same date. In the said grounds, there is a reference of nine criminal cases which are filed against the petitioner for various offences under the Indian Penal Code.

Considering the number of criminal cases pending against the petitioner, it prima facie appears that he is a habitual offender and is indulged in activities relating to theft of various types. The authorities have, therefore, detained him under PASA. The said detention order is challenged by the petitioner by way of this petition.

It is submitted by the learned advocate for the petitioner that the petitioner was already in police custody and the authorities have stated that the petitioner may be released on bail at any point of time.

It is submitted on behalf of the petitioner that in any case these are the individual types of cases and they do not affect public order as it is a matter of breach of law and order situation.

Considering the nature of the cases, in my view these are the cases which affects the law and order situation and it cannot be said that public order is disturbed by the petitioner by the aforesaid activities. Though of course the petitioner seems to be a habitual offender it cannot be said that his activities are such which affect public order. It is for the State to find out other alternative machinery to prevent the petitioner from carrying out such activities. But, so far preventive detention is concerned, breach of public order is required to be present by invoking preventive detention.

In above view of the matter, the petition is allowed. The order of detention is ordered to be quashed and set aside and it is accordingly set aside. The petitioner Krunal Rameshbhai Patel is ordered to be released forthwith, if he is not required in connection with some other case. Rule is accordingly made absolute.

(P. B. Majmudar, J.)

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